

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAVELL FOX,

Plaintiff,

9:19-cv-0498 (BKS/ATB)

v.

BERNARD SHEFTIC,

Defendant.

Appearances:

Plaintiff, pro se:

Javell Fox
12-B-1626
Great Meadow Correctional Facility
Box 51
Comstock, NY 12821

For Defendant:

Letitia James
New York State Attorney General
William E. Arnold, IV
Assistant Attorney General
New York State Attorney General's Office
300 South State Street, Suite 300
Syracuse, NY 13202

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Javell Fox, a New York State inmate, brings this action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at the Auburn Correctional Facility. (Dkt. No. 16). On July 2, 2020, Plaintiff filed a motion for summary judgment. (Dkt. No. 29). On August 17, 2020, Defendant filed a response and a cross-motion for summary judgment. (Dkt. No. 39). This matter was assigned to United States Magistrate Judge Andrew T. Baxter who, on

November 24, 2020, issued a Report-Recommendation recommending that Plaintiff's motion for summary judgment be denied, that Defendant's cross-motion for summary judgment be granted and that Plaintiff's complaint be dismissed with prejudice. (Dkt. No. 48). Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 48, at 22).

No objections have been filed. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 229 (N.D.N.Y. 2012) (citing Fed. R. Civ. P. 72(b), Advisory Committee Notes to 1983 amendment). Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 48) is **ADOPTED**; and it is further

ORDERED that Plaintiff's motion for summary judgment (Dkt. No. 29) is **DENIED**; and it is further


ORDERED that Defendant's cross-motion for summary judgment (Dkt. No. 39) is **GRANTED**; and it is further

ORDERED that Plaintiff's amended complaint (Dkt. No. 16) is **DISMISSED with prejudice**; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: December 29, 2020
Syracuse, New York


Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge